

classes, make contributions of time or money, receive treatment or submit to any manner of probation or supervision or forego appeal of the trial court finding, the respondent will be considered, for the purposes of 46 U.S.C. 7704, to have received a final conviction. A later expungement of the record will not be considered unless it is proved that the expungement is based on a showing that the court's earlier *conviction* was in error.

(d) The respondent may not challenge the jurisdiction of a Federal or State court in proceedings under 46 U.S.C. 7703 and 7704.

§ 5.549 Admissibility of respondent's Coast Guard records prior to entry of findings and conclusions.

(a) The prior disciplinary record of the respondent is admissible when offered by the respondent.

(b) In addition to the use of a judgment of conviction as provided in § 5.547, the prior record of the respondent, as defined in § 5.565, is admissible when offered by the investigating officer for the limited purposes of impeaching the credibility of evidence offered by the respondent regarding a disciplinary record.

§ 5.551 Admissions by respondent.

No person shall be permitted to testify with respect to admissions made by the respondent during or in the course of an investigation under this part or part 4 of this title except for the purpose of impeachment.

§ 5.553 Testimony by deposition.

(a) Testimony may be taken by deposition upon application of either party or upon the initiative of the Administrative Law Judge. The application of a party must be in writing and must contain the reasons for the deposition, the name and whereabouts of the witness and an approximate date, time and place for the deposition hearing. The applicant may request that it be by oral examination, or upon written interrogatories, or a combination thereof. The deposition may be taken before any person authorized to administer oaths.

(b) Upon good cause appearing therefor, the Administrative Law Judge en-

ters and serves upon the parties an order designating the person before whom the deposition is to be taken, together with such other information, directions and orders as will enable the person so designated to obtain the testimony of the deponent. The Administrative Law Judge issues a subpoena in accordance with subpart F of this part which, along with his order and a list of interrogatories and cross-interrogatories, if any, is forwarded to the person designated to take the deposition. This person shall have the subpoena served upon the witness.

(c) The investigating officer and respondent and/or their representatives may attend the taking of a deposition.

(d) After the deposition has been taken and transcribed it is presented to the witness for examination, correction and signature unless such a procedure is waived by the deponent, on the record. The person taking the deposition shall certify to the signature of the witness. If, for any reason, the deposition or interrogatory is not signed by the witness, the person taking the deposition shall recite (under oath) thereon the reason it is not signed.

(e) A deposition upon oral examination may be taken by telephone conference upon such terms, conditions, and arrangements as are prescribed in the order of the Administrative Law Judge.

(f) The testimony at a deposition hearing may be recorded on videotape, upon such terms, conditions, and arrangements as are prescribed in the order of the Administrative Law Judge, at the expense of the party requesting the recording. The video recording may be in conjunction with an oral examination by telephone conference held pursuant to paragraph (e) of this section. After the deposition has been taken, the person taking the deposition shall immediately seal the videotape in an envelope, attaching thereto a statement identifying the proceeding and the deponent and certifying as to the authenticity of the deposition, and return the videotape by accountable means to the Administrative Law Judge. Such deposition becomes a part of the record of proceedings in the